IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6007 OF 2005

Puniya B. Chopade & Ors. ..Petitioners.

Vs.

The State of Maharashtra & Ors. ..Respondents.

....

Mr.S.S.Pakale for the Petitiioners.

Mrs.S.S.Bhende, AGP for the State.

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CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

20th October, 2005.

P.C. :

1. Rule. Heard forthwith.

2. The Petitioners are working with the Central Dairy, Aarey, Goregaon. They were regularized on various dates as set out in Exh.A to the Petition. The Applicants thereafter filed an

Original Application before the Administrative Tribunal being O.A. NO.1205 of 2003. That application came to be disposed of by order dated 26th April, 2005. The Learned Tribunal held that the claim of the Petitioners was barred by limitation. It is this order which is the subject matter of the present Petition.

3. The issue of regularization was an issue before this Court as also before the Apex Court. Considering the standing orders as enforced, directions have been given that persons like the Petitioners working in the milk scheme should be regularized after completing 240 days. There is no finding of fact recorded by the Tribunal as to when the Petitioners completed 240 days. The only material available on the record is Exh.A filed by the Petitioners herein. It would not be possible for us to decide the issue on the said Ex.A. A finding of fact will have to be recorded.

4. The other aspect of the matter is that the Tribunal has been pleased to reject the entire claim in so far as wages are concerned. To that

extent the order of the Tribunal deserves to be interfered with. As a matter of fact, the Petitioners at least would be entitled to the arrears at least for a period of three years prior to the date of filing of the Original Application after having been regularized and granted consequential benefits like, pay scale and increments. Considering the above, the Petition can be disposed of by passing the following order :

(1) The impugned order dated 26th April, 2005 is set aside. The matter is remanded back to the Tribunal for rehearing the matter in terms of what is set out herein below;

(2) The Tribunal to record finding of fact as to when the Petitioners had completed 240 days of continuous service. The Petitioners herein would be entitled to be regularized on completion of 240 days of continuous service and be entitled to be placed on the regular pay scale from that date with all consequential benefits from that date and increments;

(3) In so far as the backwages are concerned, the Tribunal to consider other orders passed by this Court to consider whether the Petitioners should be granted all backwages from the date of regularization as a consequential relief.

Rule made absolute accordingly. There shall be no order as to costs.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)